

ARLENE P. MESSINGER  
Assistant General Counsel for SBIC Enforcement  
U.S. Small Business Administration  
Receiver for Prospero Ventures, L.P.  
409 Third Street, S.W., 7<sup>th</sup> Floor  
Washington, DC 20416  
Telephone: (202) 205-6857  
Facsimile: (202) 481-0325

DARRYL J. HOROWITT #100898  
CHRISTINE J. LEVIN #192181  
COLEMAN & HOROWITT, LLP  
Attorneys at Law  
499 West Shaw, Suite 116  
Fresno, California 93704  
Telephone: (559) 248-4820  
Facsimile: (559) 248-4830

Attorneys for Plaintiff,  
U.S. SMALL BUSINESS ADMINISTRATION,  
as Receiver for PROSPERO VENTURES, L.P.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

U.S. SMALL BUSINESS  
ADMINISTRATION, as Receiver for  
PROSPERO VENTURES, L.P.,

Plaintiff,

v.

DONALD K. EMERY,

Defendant.

NO. C 07-03741 VRW

**Related Cases:**

C 07-03732, C 07-03733, C 07-03735,  
C 07-03736, C 07-03737, C 07-03738,  
C 07-03739, C 07-03740

**REQUEST TO TAKE JUDICIAL  
NOTICE**

**[Filed Concurrently with Notice of  
Motion, Memorandum of Points and  
Authorities; and Proposed Order]**

Date: May 8, 2008  
Time: 2:30 p.m.  
Ctm: 6, 17<sup>th</sup> Floor

Date Complaint Filed: July 19, 2007  
Trial Date: Not yet set

TO THE HONORABLE COURT AND TO ALL PARTIES AND TO THEIR RESPECTIVE  
ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that plaintiff, U.S. SMALL BUSINESS ADMINISTRATION, as Receiver for PROSPERO VENTURES, L.P., requests that the court take judicial notice of the following documents pursuant to Federal Rules of Evidence, Rule 201:

1. Original Complaint filed in the above-captioned matter by plaintiff on July 19, 2007, a true and correct copy of which is attached hereto as Exhibit "1;"

2. Answer filed in response to the Complaint in the above-captioned matter filed on October 19, 2007, a true and correct copy of which is attached hereto as Exhibit "2;"

3. The Joint Case Management Statement filed in this case on March 17, 2008, a true and correct copy of which is attached hereto as Exhibit "3;" and

4. The Order Granting Receivership and Permanent Injunctive Relief entered by Judge Sandra Brown Armstrong on October 20, 2004 in *United States of America v. Prospero Ventures, L.P.*, Case No. C 04-4351 SBA, U.S. District Court, Northern District of California, a true and correct copy of which is attached hereto as Exhibit "4."

Respectfully submitted,

Dated: April 3, 2008

COLEMAN & HOROWITT, LLP

By: 

CHRISTINE J. LEVIN  
Attorneys for Plaintiff  
U.S. SMALL BUSINESS  
ADMINISTRATION, as Receiver for  
PROSPERO VENTURES, L.P.

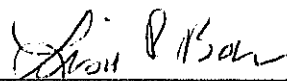
### PROOF OF SERVICE

I declare that I am a citizen of the United States of America and a resident of the County of Fresno. I am over the age of eighteen (18) years and not a party to the within action. My business address is 499 West Shaw, Suite 116, Fresno, California 93704.

On April 3, 2008, I served the foregoing document(s) described as **REQUEST TO TAKE JUDICIAL NOTICE** on the interested parties, addressed as stated on the attached service list.

- ☒ BY MAIL - by placing ☒ a true and correct copy ☐ the original thereof enclosed in a sealed envelope with postage thereon fully prepaid in the firm's outgoing mail. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with United States Postal Service on that same day in the ordinary course of business.
- ☒ BY CALIFORNIA OVERNIGHT - by placing ☒ a true and correct copy ☐ the original thereof enclosed in a sealed envelope for delivery via California Overnight next day delivery to the addressee noted above.
- ☐ BY HAND DELIVERY - by delivering by hand and leaving a true copy with the person and at the address shown above.
- ☐ BY FACSIMILE TRANSMISSION - by causing a true facsimile thereof to be electronically transmitted to the parties, by using their facsimile number indicated on the attached service list.
- ☐ STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☒ FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on April 3, 2008, at Fresno, California.

  
\_\_\_\_\_  
Lisa R. Barr

**Service List**

**Via Mail and Electronic Mail:**

Bruce A. Singal, Esq.  
Donoghue Barrett & Singal, P.C.  
One Beacon Street, Suite 1320  
Boston, MA 02108-3113  
E-Mail: bsingal@dbslawfirm.com

Attorneys for Defendants

**Via California Overnight:**

**Chambers Copies**

Hon. Hon. Vaughn R. Walker  
U.S. District Court, Northern District  
450 Golden Gate Avenue  
17<sup>th</sup> Floor, Court Room 6  
San Francisco, CA 94102